

# Calendar No. 675

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SENATE

{ REPORT  
No. 714 }

## LEO KIEVE

AUGUST 27 (legislative day, AUGUST 1), 1951.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

### REPORT

[To accompany S. 2027]

The Committee on the Judiciary, to which was referred the bill (S. 2027) for the relief of Leo Kieve, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

#### AMENDMENT

Strike all after the enacting clause and insert in lieu thereof the following:

That Leo Kieve, a United States citizen veteran of World War II, shall not be held to have lost United States citizenship under any of the provisions of the Nationality Act of 1940 providing for loss of citizenship through continuous residence in a foreign state: *Provided*, That the said Leo Kieve returns to the United States for permanent residence within a period of one year following the effective date of this Act.

#### PURPOSE OF THE BILL

The purpose of the bill, as amended, is to preserve for Leo Kieve his United States citizenship notwithstanding any period of residence in a foreign state.

#### STATEMENT OF FACTS

The beneficiary of the bill was born in Germany in 1912. He served honorably in the United States Armed Forces from 1942 to 1946 and spent 2 years in the China-Burma theater. He was naturalized as a citizen of the United States at Chabua, India on June 22, 1945. He is married to a native-born United States citizen and they have one citizen child, as well as an adopted Austrian war orphan.

In November 1946, Mr. Kieve went to Stockholm, Sweden, to manage a raincoat factory owned by his brother and his parents. Under the provisions of section 404 (c) of the Nationality Act of 1940, as amended a person who is a naturalized citizen of the United States loses his nationality by residing continuously for 5 years in a foreign state. Therefore, Mr. Kieve, under the said section, would lose his United States citizenship on November 17, 1951.

Senator William Langer, the author of the bill, has submitted the following memorandum dated August 1, 1951, setting forth the pertinent facts in the case:

AUGUST 1, 1951.

Memorandum, Re: Leo Kieve

Mr. Leo Kieve, born Bromberg, Germany, May 23, 1912; occupation, chemist. He arrived in the United States under Polish quota (the place of his birth was turned over to Poland by the Allies after World War I; at the time of his immigration, he was chargeable to the Polish quota.)

Mr. Kieve served honorably in the United States Armed Forces from December 12, 1942 to February 1, 1946. He spent 2 years in the China-Burma theater. He received his citizenship at Chabua, India, on June 22, 1945.

Mr. Kieve is married to a native-born United States citizen, to wit: Olive Carolyn Kieve, nee Littau. A child was born to them October 23, 1948 in Sweden. This child is a United States citizen and entered into his mother's passport.

After his discharge from military service, Mr. Kieve was asked to manage a raincoat factory owned by his brother, Siegbert Kieve, and his parents, at Stockholm. He went to Stockholm November 17, 1946. Mr. Kieve's original passport was issued to him by the Department of State in Washington, D. C. This passport was renewed for a further period of 2 years on August 16, 1948, and was last renewed by the American Embassy in Stockholm, Sweden, on August 8, 1950. This passport had an expiration stamp indicating that same would expire November 17, 1951, which is the date that Mr. Kieve will have resided in Stockholm, Sweden, for a period of 5 years.

The provisions of the Nationality Act of 1940 would cause a loss of citizenship to Mr. Kieve unless one of the provisions of sections 403, 404, 405, or 406 can be invoked.

Mr. Kieve returned to the United States July 12, 1951, bringing with him his wife, the child of his marriage, as well as an adopted Austrian war orphan, whom Mr. and Mrs. Kieve have fully adopted according to Swedish law.

They took up their residence, which they have heretofore maintained, at 116 Lenox Road, Brooklyn, N. Y.

Mr. Young, of Mrs. R. B. Shipley's office, stated that he cannot issue a further passport to Mr. Kieve, since he must first be satisfied that Mr. Kieve has abandoned his place of abode. I endeavored to show him facts to warrant such an assumption. In this connection, I pointed out to him that Mr. Kieve has continuously maintained his apartment in New York; has maintained his bank accounts, insurance policies, and personal effects in his home, and has continuously maintained a business organization in New York.

Presently, I am handling an adoption proceeding in New York for Mr. and Mrs. Kieve.

Furthermore, in my endeavor to show to the Department that Mr. Kieve did abandon his place of abode in Sweden, I submitted the following information:

1. His children are being registered in schools here.

2. They maintain their normal and social activities here, to wit: Mrs. Kieve is reopening her charge accounts, they purchased an automobile, and Mr. Kieve is now active in New York pursuant to orders from the home factory in Sweden.

While it is true that Mr. Kieve's brief sojourn here may, in itself, indicate an intention not to return here, I feel that the accompanying facts indicate unequivocally the existence of an intent. The Department, of course, maintains that intent is not an important factor, but rather the actual place of abode, irrespective of intent, is the governing factor. Of course, on that score, I would maintain that the actual place of abode is presently in New York. Furthermore, since intent is not a factor, the only circumstance to be proved is the abandonment of the previous abode. What degree of evidence is required appears to depend on the forcefulness of the persuasion that is exercised.

I understand that the Department policy has been to advocate deletion of section 404 c. The pending omnibus bill, which I understand has now been

reported out from the Judiciary Committee, would exempt Mr. Kieve from a loss of citizenship, in that a section similar to 406 h would be applicable, to wit: exemption of veterans of World War II.

The hereinabove-mentioned facts as to Mr. Kieve's intention, I can substantiate by affidavit or other objective testimony. If the Department could issue a passport to Mr. Kieve for a period of 8 months to a year, it would serve his purpose, since he only intends to return to Sweden to liquidate the factory and business interests of the family, an incidence only now possible, since his brother, Siegbert, is about to enter the United States as a regular quota immigrant. I am sure it is within the discretion of the Department to issue such a passport.

Perhaps we could fall under one of the other exception clauses under section 406. I do not, however, know what degree of evidence would be necessary. I am referring to subsections (c) and (d) of 406, of the Nationality Act. If, of course, the omnibus bill would be passed, I could fully recommend that Mr. Kieve return and finish his business. I understand the proposed exemption provision would be retroactive. This, however, is a risky matter. A bill, as was indicated, would not be a feasible procedure at this time.

Mrs. Shipley was very pleasant about the matter, but she felt that she should act on the advice of counsel, much to my chagrin and regret. I feel that if properly prevailed upon, she would nevertheless oblige.

By what other means I could show an intention to live and reside here, I do not know. The fact that Mr. Kieve's father and mother in Sweden are both ill, he with a cardiac condition and she with a diabetic condition, may, of course, prompt the Department to assume that Mr. Kieve would intend to continue to reside with them. Incidentally, Mr. Kieve or his wife never acquired real estate or other property in Sweden, and never intended to remain there. Even during their absence, I know that Mr. Kieve bought war bonds, continued to pay whatever taxes and obligations he had as an American citizen, despite his residence abroad.

Your superior counsel in the solution of this problem is solicited.

A. S. HOLMES.

It is the information of the committee that if Mr. Kieve could have an additional 9 or 10 months in Sweden, he would be able to wind up his affairs there and return to the United States permanently.

The bill has been amended solely to bring the language in line with several previous bills of this type which have passed the Senate.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (S. 2027), as amended, should be enacted.

